

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No. 1582 of 2006
Date of Decision: 16.10.2007

Naurang Singh

....Appellant

Versus

Pal Ram

...Respondent

Coram: Hon'ble Mr. Justice Hemant Gupta.

Present: Shri J.S. Cooner, Advocate, for the appellant.

HEMANT GUPTA, J.

The plaintiff is in second appeal aggrieved against the judgment and decree passed by the Courts below, whereby the suit for injunction restraining the defendant from raising construction over the suit property without the partition of the land, was dismissed.

It was found that the defendant has raised construction over the land measuring 1 kanal 5 marlas having a boundary wall. It was also found that the Jamabandi Exhibit D.1 shows the defendant to be in exclusive possession of land measuring 1 kanals 5 marlas.

Learned counsel for the appellant has vehemently argued that the construction has been raised by the defendant after ad-interim injunction was granted and that in partition proceedings, interest of the plaintiff shall be seriously prejudiced.

Admittedly, the parties are the co-sharers and being co-sharer, the defendant could not raise construction so as to affect the rights of the plaintiff-appellant. Therefore, the effect of construction shall be examined by the authorities, which are required to effect the

partition of the joint land. However, since the defendant has raised the construction, the plaintiff is not entitled to any other relief in the present suit.

Consequently, I do not find any patent illegality or irregularity in the findings recorded by the Courts below, which may give rise to any substantial question of law in the present appeal. Hence, the present appeal is dismissed.

16-10-2007
ds

(HEMANT GUPTA)
JUDGE